

**Remarks**

Claims 1-29 are pending.

Claims 2-4, 6, 9-12, and 21-24 are canceled.

Claims 1,5, 7, and 13 are currently amended.

Applicant respectfully asserts that the claims are in condition for allowance and such allowance is, respectfully requested.

Applicant has cancelled claims 2-4, 6, 9-12, and 21-24 without prejudice.

The Examiner has rejected claims 1-6, 9-18, 21-24 under 35 U.S.C. §102(b) as being anticipated by Marogna. Applicant respectfully asserts that the pending claims, as amended herein, are allowable over the Examiner's rejection.

As set forth in claim 1, the controllable burr adjuster is coupled to and moves with the gear adjusted by the adjuster. Marogna does not indicate that the burr adjuster moves with the gear adjusted.

With regard to the rejection under 35 U.S.C. §102, it is well settled, anticipation requires "identity of invention." *Glaverbel Societe Anonyme v. Northlake Manufacture Mktg. & Supply*, 33 USPQ2d 1496, 1498 (Fed. Cir. 1995). Each and every element recited in a claim must be found in a particular prior art reference and arranged as in the claims. *In re Marshall*, 198 USPQ 344, 346 (CCPA 1978); *Lindemann Maschinenfabrik GMBH*, see *American Hoist and Derrick Company*, 221 USPQ 481, 485 (Fed. Cir. 1984). Furthermore, in a rejection under 35 U.S.C. §102(b) there must be no difference between what is claimed and what is disclosed in the applied reference. *In re Kalm*, 154 USPQ 10, 12 (CCPA 1967); *Scripps v. Genentech Inc.*, 18 USPQ2d 1001,1010 (Fed. Cir. 1991).

Each and every element recited in the present amended claims is not found in the Marogna reference. The Marogna reference shows a different adjuster. As such, there are clear differences between what is claimed and what is disclosed in the reference.

The Examiner has also rejected claims 7, 8, 9 and 20 under 35 U.S.C. §103 based on Marogna. Applicant respectfully asserts that the pending claims, as amended herein, are allowable over the Examiner's rejection.

With regard to the rejections under 35 U.S.C. §103(a), it is respectfully submitted that Applicants' claims are patentable, as the Examiner has failed to establish a *prima facie* case of obviousness. According to Section 706.02 (j) of the MPEP the Examiner must meet three basic criteria to establish a *prima facie* case of obviousness:

(1) first, there must be some reasonable suggestion or motivation in the prior art to modify the reference or to combine the reference teachings;

- (2) second, there must be reasonable expectation of success in obtaining the claimed invention based upon the references relied upon by the Examiner; and
- (3) third, the prior art reference (or references when combined) must teach or suggest all of the claimed limitations.

MPEP Section 706.02(j) further requires that the teaching or suggestion to make the modification or reference combination and the expectation of success, must be found in the prior art, and may not be based upon the Applicants' disclosure.

If there is any issue remaining to be resolved, the Examiner is invited to contact the undersigned attorney by telephone so that resolution can be promptly effected.

There is no reasonable suggestion or motivation in the Marogna reference to achieve the claimed invention. There is no reasonable expectation of success in obtaining the claimed invention because there is no teaching in Marogna of the claims as amended. Moreover, it is not clear how Marogna actually operates the gears as disclosed. With this in mind, the Marogna does not teach or suggest all of the claims limitations. As such, there is no expectation of success found in the teachings or suggestions of the Marogna reference to achieve the claimed invention.

It is believed that fees are not required for this Response, however it is requested that, if necessary to effect a timely response, this paper be considered as a Petition for an Extension of Time sufficient to effect a timely response with the fee for such extensions and any other fees or shortages in other fees, being charged, or any overpayment in such fees being credited, to the Deposit Account of Barnes & Thornburg LLP, Deposit Account No. 12-0913 acknowledging attorney docket no. (27726-100553).

Respectfully submitted,  
BARNES & THORNBURG LLP



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